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Attorneys for Debtor: Imtiaz Sheikh and Zarina Sheikh

**UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

In Re:  
Imtiaz Sheikh and Zarina Sheikh  
Debtor

Chapter 13  
Case No: 12-50884 SLJ

Imtiaz Sheikh and Zarina Sheikh

Debtor

vs.

Bank of America, N.A.

Respondents

**MOTION TO VALUE & AVOID LIENS**

**Property Address: 1797 West Campbell Ave. Campbell, CA 95008**

Debtors, Imtiaz Sheikh and Zarina Sheikh, move the Court for an Order Valuing & Avoiding Junior lien filed by Bank of America, N.A. (hereinafter "Second Lien").

The lender recorded its lien against debtor's residence and the lien should be avoided as the market value of debtor's residence is less than the amount owed encumbrances senior to this

1 lien. This lien is accordingly not entitled to secured status within the meaning of 11 U.S.C.  
2 506(a).

3 In support of the Motion debtors have filed the Declaration of Imtiaz Sheikh (hereinafter  
4 “Declaration”) which contains the exhibits referred to herein. Each of these exhibits is  
5 incorporated herein by reference.

6 Debtor submits as follows:

7 1. The debtors commenced this case on February 3, 2012. The plan is awaiting  
8 confirmation.

9 2. Among the assets at the commencement of the case is the debtor’s residence,  
10 commonly known as 1797 W Campbell Ave. Campbell, CA 95008 (hereinafter “the Property”)  
11 valued at \$656,700. The legal description of the property is attached as *Exhibit A* of the  
12 Declaration.  
13

14 **SENIOR LIEN HOLDER**

15 3. On or about January 11, 2007, Bank United, FSB (**herein “Senior Lien**  
16 **Holder”**) recorded a senior deed of trust in Santa Clara County, where the Property is located  
17 (**Document 19260580**). A copy of the recording information pertaining to the Deed of Trust  
18 (DOT) is attached to the Declaration as *Exhibit B*.

19 4. Debtors were advised that Carrington Mortgage Services is a current servicing  
20 agent. A copy of the transfer of claim is attached to the Declaration as *Exhibit C*.

21 5. The Senior Lien Holder filed a proof of claim in the amount of \$750,405.76 that  
22 is more than the \$656,700 market value of the property. A copy of the proof of claim is  
23 attached as *Exhibit D*.  
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1 **objecting party. Any objections not timely filed and served shall be deemed waived. The**  
2 **moving party may then ask that the court approve the proposed action by default without**  
3 **a hearing.**

4 WHEREFORE, the debtor prays that the Court Order as follows:

- 5 1. That the junior lien recorded on or about June 19, 2008, as Document No.  
6 19891329 with the Santa Clara County Recorder, by Bank of America, N.A is void  
7 under 11 USC 1322(b)(2); is an unsecured claim within the meaning of 11 U.S.C. § 506  
8 (a) and that said Lien be declared null and void as to the Property described herein.  
9
- 10 2. The entered order shall become part of Debtors' confirmed Chapter 13 plan.
- 11 3. Upon entry of a discharge or completion of plan payments in Debtors' chapter 13 case,  
12 the Lien shall be voided for all purposes, and upon application by Debtor, the court will  
13 enter an appropriate form of judgment voiding the Lien.
- 14 4. If Debtors' chapter 13 case is dismissed or converted to one under another chapter  
15 before Debtors obtain a discharge or completes plan payments, the entered order shall  
16 cease to be effective and the Lien shall be retained to the extent recognized by  
17 applicable nonbankruptcy law, and upon application by the lien holder, the court will  
18 enter an appropriate form of order restoring the Lien.
- 19 5. Except as provided by separate, subsequent order of this court, the Lien may not be  
20 enforced so long as the entered order remains in effect.  
21

22  
23 Respectfully Submitted

ELLAHIE & FAROOQUI LLP

24 Dated: August 22, 2013

/s/ Javed I. Ellahie  
Javed I. Ellahie, Esq. (Attorney for Debtor)

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